

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JACKSON & CAMPBELL, P.C.

Plaintiff/Counterclaim-Defendant,

v.

JOHN J. McDERMOTT, et al.

Defendant/Counterclaimant.

Civil Action No. 01-0499 (RMC)

MEMORANDUM OPINION

Pending before the court are a Motion for Summary Judgment filed by Defendant John J. McDermott, a Motion to Dismiss filed by Defendants Daniel J. Scher, Scher & Scher, P.C., and Robin L. Higgins, and a Motion to Dismiss filed by The American Center for Civil Justice, Inc. Each is denied.

BACKGROUND

This is an action to claim the contingent fee arising from the successful prosecution of a terrorism case by John McDermott, Esq. The plaintiff in the underlying suit was titularly Robin L. Higgins, who had assigned her interest to The American Center for Civil Justice, Inc. ("the Center"), seeking recompense for the abduction and murder of her husband in Lebanon. When the representation began, throughout trial, and until three days before judgment issued in Ms. Higgins' favor, Mr. McDermott was an Income Director at Jackson & Campbell, P.C.¹ Ms. Higgins followed

¹ Judgment issued on September 21, 2000, in the amount of \$55,431,937 in compensatory damages and \$300,000,000 in punitive damages. In order to ensure that claimants

Mr. McDermott to his new firm, Defendant Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.

Pursuant to a pre-existing contingent fee agreement, a fee of \$3,000,000 was to be paid from the monies collected. Jackson & Campbell claims the fee and initiated this litigation to obtain it.

DISCUSSION

A. McDermott's Motion for Summary Judgment

Mr. McDermott has filed a Motion for Summary Judgment, arguing that his employment agreement with Jackson & Campbell specifies how the contingent fee is to be handled after his departure from that firm. Jackson & Campbell claims that the employment agreement expired in 1998 and that the firm is entitled to the contingent fee, with an unspecified sum allocated to Hall, Estill for work on the matter after Mr. McDermott joined that firm. As the moving party, Mr. McDermott bears the burden of establishing the existence of the agreement after its stated expiration date. *Virtual Def. & Dev. Int'l, Inc. v. Republic of Moldova*, 133 F. Supp.2d 9 (D.D.C. 2001). He also bears the burden of demonstrating that the facts, when viewed in a light most favorable to the non-moving party, show that there are no genuine issues of material fact and that he is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

Whether there was a binding contract in effect when Mr. McDermott left Jackson & Campbell in September 2000 is not resolved by the affidavits and arguments before the court. The motion for summary judgment is denied.

such as Ms. Higgins actually recover the compensatory damages they are awarded by the federal courts, Congress passed § 2002 of the Victims of Trafficking and Violence Protection Act of 2000, 22 U.S.C. § 7101 *et seq.*, which became law on October 28, 2000.

B. Scher & Scher's Motion to Dismiss

Scher & Scher has filed a Motion to Dismiss itself, Mr. Scher and Ms. Higgins on the basis that this court lacks personal jurisdiction over those parties. The motion is completely silent concerning Ms. Higgins. While it argues forcefully that neither the Scher & Scher law firm nor Mr. Scher personally has any contacts to the District, Jackson & Campbell has asserted sufficient specific contacts, including phone and mail contacts and circulation of drafts and documents within the District for parties' signatures, to entitle it to discovery on the issue. *See GTE New Media Servs., Inc. v. Bellsouth Corp.*, 199 F.3d 1343, 1351 (D.C. Cir. 2000) ("[I]f a party demonstrates that it can supplement jurisdictional allegations through discovery, then jurisdictional discovery is justified"); *El-Fadl v. Cent. Bank of Jordan*, 75 F.3d 668, 677 (D.C. Cir. 1996) (allegations of specific transactions within the District entitled plaintiff to reasonable jurisdictional discovery to ascertain further connections). The Motion to Dismiss is denied as to Ms. Higgins and is denied as to Scher & Scher and Mr. Scher at this time.

C. The American Center for Civil Justice's Motion to Dismiss

The American Center for Civil Justice also filed a Motion to Dismiss based on its alleged lack of contacts to the District of Columbia and this court's lack of personal jurisdiction. Mr. McDermott, however, states that the Center entered into the contingency fee agreement through Dr. Michael Engelberg, who was acting pursuant to a power of attorney from Mrs. Higgins to the Center to retain legal counsel. These allegations are sufficient to entitle Plaintiffs to jurisdictional discovery on the issue of the Center's contacts with the District of Columbia. *See GTE*, 199 F.3d at 1351; *see also Law Offices of Jerris Leonard, P.C. v. Mideast Sys., Ltd.*, 630 F. Supp. 1311, 1313 (D.D.C. 1986) (defendants who contracted for legal services which were performed within the District

subject to personal jurisdiction in a fee dispute arising from contract). Therefore the Motion to Dismiss is denied at this time.

CONCLUSION

In conclusion, this court will deny Mr. McDermott's Motion for Summary Judgment and Ms. Higgin's Motion to Dismiss. This court will also deny at this time Scher & Scher's and Mr. Scher's Motion to Dismiss and the American Center for Civil Justice's Motion to Dismiss. Jackson & Campbell may conduct limited jurisdictional discovery as specified in the order separately and contemporaneously issued this ____ day of January 2003.

ROSEMARY M. COLLYER
United States District Judge